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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,006	05/15/2006	Jurgen Baumlé	05-650	6478
34704 7590 09/15/2008 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510				
EXAMINER				
KEENAN, JAMES W				
ART UNIT		PAPER NUMBER		
3652				
MAIL DATE		DELIVERY MODE		
09/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,006

Applicant(s)

BAUMLE ET AL.

Examiner

James Keenan

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 10/4/05
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the weight and quantity of goods being determined on the vehicle (claim 16), the pick location being indicated by the vehicle (claim 17), the pick location being illuminated (claim 18), the weighing device and terminal for controlling the weighing results (claim 22), the identification means (claim 27), and the protective device (claim 28) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 16-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 16 recites that the picking up and transferring of goods is controlled automatically "by the weight and the quantity of the goods ... being determined on the vehicle and being compared with a desired value". Nowhere, however, does the disclosure set forth the manner in which this is done or show or describe any structure for performing such a function.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 16-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 16 and 21, phrases such as "and/or", "in particular", and "or the like" are vague.

Also in claim 16, it is not clear how the "weight and quantity of the goods" is "determined on the vehicle and ... compared with a desired value".

It is also noted that claims 16-20, even though recited in the preamble as method claims, are not written in proper method terminology (i.e., the utilization of functional language such as "characterized by", "by means of", and "wherein" clauses instead of reciting positive method steps).

Claim 20, "the order picker" lacks antecedent basis.

In the preamble of claim 21, it is not clear what is meant by "a system for a method".

In claim 22, it is not clear what is meant by "assigned a weighing device".

In claim 23, it is not clear how the overhead track "forms a pick-up or transfer plane".

In claim 24, the recitation of "forks conveying technology" is not understood.

In claim 28, it is not clear what is meant by or comprises a "protective device".

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 16-19, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Galli (US 5,409,342).

Galli shows a method of picking up and transferring goods in a store 10 by use of an automated guided vehicle 13 which moves along an aisle 14 to a predetermined pick location (fig. 1), the transfer being controlled fully automatically by the weight and quantity of the goods being determined on the vehicle and compared to a desired value (col. 3, lines 53-61).

Re claims 17-18, note transceivers 22, 23 (col. 4, lines 8-26).

Re claim 19, note the unlabeled pantograph (col. 4, lines 57-59).

8. Claims 16, 17, 19-23, and 25-27, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Fenn (US 4,820,101).

Fenn shows a method and system for picking up and transporting goods 4 in a storage yard 5 ("store", as broadly claimed), including a vehicle 2 which travels under fully automated control of a computer 6 to pick up desired goods in a particular location along an "aisle" of the store, wherein the weight and quantity of the goods is determined on the vehicle and compared with a desired value (col. 17, lines 14-41 and line 56 to col. 18, line 18).

Re claim 17, the goods include a location transponder which is identified by the vehicle (col. 10, line 36 to col. 11, line 37).

Re claim 19, the vehicle is a vertically adjustable crane which automatically adjusts to the desired storage height.

Re claim 20, the crane includes a cab for an operator to travel therein (col. 9, lines 34-44).

Re claim 21, the crane may operate on an overhead suspended track (col. 6, lines 25-30).

The remaining dependent claims will not be discussed in detail, as the above discussion should give applicant the general idea of the manner in which the broad and indefinite language of the claims is being interpreted by the examiner.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 24 and 28, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fenn.

Fenn shows the goods to be picked up or transferred by a grab mechanism (col. 6, lines 40-43) rather than by two forks or a platform (which is presumably what is meant by the claim terminology).

Nevertheless, it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the device of Fenn by replacing the grab mechanism thereof with forks or a platform for the picking up or transferring of the goods, as this would merely be an alternate equivalent design expediency if the nature (i.e., shape or size) of the goods made such a device more suitable.

Re claim 28, although Fenn discloses no particular "protective device for monitoring and securing the vehicle", the use thereof is considered an obvious and well known safety measure, particularly in view of the extremely broad nature of such terminology and applicant's failure to show or describe what such a device comprises.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Keenan/
Primary Examiner, Art Unit 3652